

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

KATHERINE VEILLEUX, JENNIFER )  
CHON, ROCKY COAST FAMILY )  
ACUPUNCTURE PC, and JAMES TILTON, )  
individually and on behalf of all others )  
similarly situated, )

Plaintiffs, )

v. )

No. 1:16-cv-571-LEW )

ELECTRICITY MAINE, LLC, )  
PROVIDER POWER, LLC, SPARK )  
HOLDCO, LLC, KEVIN DEAN and )  
EMILE CLAVET, )

Defendants. )

**ORDER APPROVING PLAINTIFFS' UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

The matter is before the Court on Plaintiffs' unopposed Motion for Preliminary Approval of Class Action Settlement.

**Preliminary Findings**

Following review of the Motion, the Settlement Agreement, and the related declarations and record, and for good cause shown, I now find, on a preliminary basis only:

1. That the proposed Settlement, as set forth in the Parties' Settlement Agreement, likely is fair, reasonable, adequate, and in the best interest of the Settlement Class, suggesting that the Settlement likely was the result of arm's-length negotiations by experienced counsel. Preliminary approval of the proposed Settlement is, therefore,

GRANTED, subject to further consideration in the context of Rule 23(e)(2) proceedings, which may include a hearing.

2. That certification of the following Settlement Class is likely, pursuant to Fed. R. Civ. P. 23(a), (b), for purposes of settlement on the proposal:

All residential and small business consumers who purchased electricity from Electricity Maine, LLC during the period from January 1, 2011 through and including November 30, 2019.<sup>1</sup>

3. That Plaintiffs Katherine Veilleux, Jennifer Chon, Rocky Coast Acupuncture PC, and James Tilton likely have adequately represented the Settlement Class.

4. That Thomas Hallett and Benjamin Donahue of Hallett Whipple Weyrens P.A., and Robert Cummins of the The Cummins Law Firm, P.A., likely have adequately represented the Settlement Class.

5. That the proposed Email Notice and Long Form Notice attached to the Settlement Agreement as Exhibits B and C, respectively, meet the requirements of due process, provide the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

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<sup>1</sup> Although the Court has no information to suggest any of the following persons are within the Settlement Class, the following persons are excluded from the Settlement Class: (a) the Defendants; (b) officers, directors, shareholders, and employees of the Defendants; (c) parents, subsidiaries, and affiliates of any Defendant; (d) any entity in which a Defendant has a controlling interest; (e) any attorneys representing Defendants in this Action, and their employees; (f) any judge to whom the action is currently assigned or was previously assigned, and their staff; (g) Plaintiffs' Counsel and their employees; and (h) any heirs, immediate family members, successors, and assigns of all such persons.

### Schedule

The following schedule is APPROVED:

Within 10 business days after entry of the Preliminary Approval Order	Defendants will provide to the Settlement Administrator such data reasonably available and necessary for administration of the Settlement, including, for Settlement Class Members, their names and last known addresses and email addresses.
Not later than 30 days after entry of the Preliminary Approval Order	The Settlement Administrator shall send the Notice Packet to all Settlement Class Members by First Class Mail and shall send the Email Notice to each Settlement Class Member for whom it has a valid email address.
Within 30 days after entry of the Preliminary Approval Order	The Settlement Administrator shall cause the Settlement Agreement, this Order, and a copy of the Long-Form and Email Notice to be posted on the Settlement Website.
Upon mailing of the Notice Packet	Claim Period begins.
Within 60 days after mailing of the Notice Packet	Deadline for Plaintiffs to file a motion for final approval of settlement, application for the award of attorneys' fees and costs, and motion requesting the named plaintiffs' enhancement awards. The Settlement Administrator shall cause any such application and motions to be posted on the Settlement Website.
90 days after mailing of Notice Packet	Deadline for Settlement Class Members to submit Claim Forms, Opt-Out Notices, and/or Objections.
97 days after mailing of Notice Packet	Deadline for the Settlement Administrator to provide counsel with affidavit of mailing of Notice.
97 days after mailing of Notice Packet	Deadline for the Settlement Administrator to provide counsel a list of all Settlement Class Members who returned a timely request to Opt-Out of the Settlement (as described in the Notice).
97 days after mailing of Notice Packet	Class Counsel shall serve and file an affidavit of the Settlement Administrator declaring compliance with the Notice provisions of this Order.

### **Settlement Administration**

The request to appoint Heffler Claims Group as the Settlement Administrator, with the responsibilities set forth in the Settlement Agreement, is APPROVED.

### **Class Member Opt-Outs**

Any Settlement Class Member (except for the Named Plaintiffs) may request to be excluded (or “Opt-Out”) from the Settlement Class. A Settlement Class Member who wishes to Opt-Out of the Settlement Class must give written notice to the Settlement Administrator, by the Opt-Out Deadline. Opt-Out requests must: (a) be signed by the Settlement Class Member who is requesting exclusion; (b) include the full name, address, and phone number(s) of the Settlement Class Member who is requesting exclusion; and (c) expressly request to Opt-Out from the Settlement in the “Electricity Maine Class Action.” No Opt-Out request will be valid unless all of the information described above is included and timely received by the Settlement Administrator by the Opt-Out Deadline.

Except for those persons who have properly and timely submitted requests to Opt-Out, all Settlement Class Members shall be bound by the Settlement Agreement and the Final Approval Order, including the Release, regardless of whether they file a Claim or receive any monetary relief. Any person who timely and properly submits a request to Opt-Out shall not: (a) be bound by any subsequent orders nor by any Release contained therein; (b) be entitled to any relief under the Settlement Agreement; (c) gain any rights by virtue of the Settlement Agreement; or (d) be entitled to object to any aspect of the Settlement Agreement.

Each Settlement Class Member requesting to Opt-Out must personally sign his, her, or its own individual request to Opt-Out. No person may Opt-Out of the Settlement Class for any other person, or be Opted-Out by any other person, and no person shall be deemed Opted-Out of the Settlement Class through any purported “mass” or “class” opt-outs.

### **Class Member Objections**

Any Settlement Class Member who intends to object to the Settlement must do so by the Objection Deadline. In order to object, the Settlement Class Member must complete a Claim Form. Additionally, the Settlement Class Member must file with the Court on or before the Objection Deadline, and provide a copy to Class Counsel and Defendants’ Counsel, on or before the Objection Deadline, a document that:

- a. states whether the objection applies only to the objector, to a specific subset of the class, or to the entire class;
- b. includes a statement of such Settlement Class Member’s specific objection(s);
- c. states the grounds for the objection(s);
- d. identifies any documents such objector desires the Court to consider;  
and
- e. states whether the Settlement Class Member would like to present his or her position at a hearing on the merits of the Settlement.

Any Settlement Class Member who fails to comply with these requirements will not be permitted to object to the Settlement and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by any means, including but not limited to an appeal. Any Settlement Class Member who files and serves a written

objection may also file a notice of his/her/its desire to appear at a hearing to address the fairness of the settlement, on or before the objection deadline. No Settlement Class Member who fails to submit this notice of intent to appear will be permitted to offer testimony or argument any such hearing.

Upon the filing of an objection, Class Counsel and Defendants' Counsel may contact the Court for leave to depose the objecting Settlement Class Member.

### **Fairness Hearing on Class Settlement Proposal**

Following review of the parties' submissions with regard to their request for final approval of the Settlement Agreement, and any objection(s) that may be filed, the Court will arrange for a telephone conference with counsel to discuss whether a further hearing is required to assess the fairness, reasonableness, and adequacy of class certification, the Settlement Agreement, any application for attorneys' fees and costs, the motion for the named plaintiffs' enhancement awards, any objections, the provision of notice to any objectors who preserved the right to appear at a hearing, and any other related matters that are brought to the attention of the Court in a timely fashion.

If final approval of the Settlement is not granted, or if the Settlement is terminated for any reason, the Settlement and all proceedings had in connection therewith shall be without prejudice to the Parties' rights to assert any right or position that could have been asserted if the Settlement had never been reached or proposed to the Court; the Parties shall return to the *status quo ante* in the Action as it existed on the date the Settlement Agreement was executed; and all orders issued pursuant to the Settlement and preliminary and final approval process shall be vacated. In such event, the Settlement Agreement and all

negotiations concerning it shall not be used or referred to in this Action, or any other action, for any purpose whatsoever.

**Stay of Proceedings**

All proceedings in this Action other than those proceedings necessary to carry out or enforce the terms and conditions of the Settlement are STAYED, until the Effective Date of the Settlement has occurred.

SO ORDERED this 13th day of May, 2020.

/s/ Lance E. Walker  
UNITED STATES DISTRICT JUDGE